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Judge Mary Jo Heston
CHAPTER 13
Hearing Date: September 6, 2018
Hearing Time: 11:00 a.m.
Response Date: August 30, 2018

4 UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

5 IN RE:

6 BOWEN, Timothy and Stacie,
7 Debtors.

No. 13-44659

DEBTORS' RESPONSE TO MOTION FOR
RELIEF FROM STAY BY US BANK TRUST
NATIONAL ASSOCIATION and PROOF OF
SERVICE

9
10 COME NOW, the Debtors, by and through their attorney, Travis A. Gagnier, and respond
11 to the Motion for Relief from Stay by US Bank Trust National Association (hereafter
12 "Creditor").

13 Debtors have been making their payments each month. They have reviewed the payment
14 history provided by the Creditor and their own records. The pay history provided with the motion
15 for relief from stay shows that Debtors have made a payment every month since at least October
16 2016. There is no basis for the motion. The Debtors have been and are paying.

17 Creditor has advised Debtors' counsel that it cannot provide a pay history from the prior
18 servicer for July 1, 2013, through October 4, 2016. Therefore, it cannot meet its burden of proof
19 as the movant in this matter. There is no evidence before the Court, or evidently available to
20 Creditor, that establishes the debtors are behind on their mortgage payments to Creditor. The
21 bald assertion by the Declarant on the affidavit attached to the motion is not supported by the
attached pay history.

22 Because it cannot meeting its burden of proof, or produce evidence of its claims,
23 Creditor's motion for relief from stay should be denied.

24 Respectfully submitted this 30th day of August 2018.

25 /s/ Travis A. Gagnier
26 Travis A. Gagnier, #26379
Attorney for Debtors

27 DEBTORS' RESPONSE TO MOTION
FOR RELIEF FROM STAY and
28 PROOF OF SERVICE - 1

LAW OFFICES OF TRAVIS
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3 **PROOF OF SERVICE**

4 I declare under penalty of perjury under the laws of the State of Washington that I filed the original of the foregoing
5 with the United States Bankruptcy Court in Tacoma and served a true copy thereof to:

6 Mary Jo Heston
7 Chapter 13 Trustee

US Bank Trust National Association
c/o Law Offices of Michelle Ghidotti

8 via ECF, and to:

9 Debtors

10 via U.S. first-class mail, postage pre-paid, on the 30th day of August 2018.

11 /s/ Shari L. Moody

12 Shari L. Moody

13 Sr. Paralegal

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27 DEBTORS' RESPONSE TO MOTION
28 FOR RELIEF FROM STAY and
PROOF OF SERVICE - 2

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